Court No.3

Criminal Misc. application no. 307 of 2002

Prem Shankar …Applicant.

Versus

State of Uttaranchal and others …Opposite parties.

Hon'ble Irshad Hussain, J.

Heard Sri Rajeev Sharma, learned counsel for the petitioner and the learned A.G.A.

This is a petition under section 482 of the Code of Criminal Procedure (for short 'Code') for quashing the order dated 26.08.2002 passed by Sessions Judge, Udham Singh Nagar on an application under section 319 of the Code filed by the prosecution. The application was moved in order to summon the applicant-accused to stand trial along with others who have been charge-sheeted after investigation. It is not in dispute that the applicant-accused was named as assailant in the first information report, although the police did not file chargesheet against him. The complainant reiterated the role of the applicant-accused in his evidence before the Sessions Judge whereupon the application under section 319 of the Code was filed, and considering the categorical assertion about the involvement of the applicant-accused, Sessions Judge was fully justified in passing a favourable order on the application and thereby summoning the applicant-accused to stand the trial along with others. The impugned order does not suffer with vice of impropriety. Hence petition has no force and is hereby dismissed.

(Irshad Hussain, J.)

08.10.02./B.